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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Vidal *et al.*

Appl. No. 09/988,821

Filed: November 20, 2001

For: **Cable Installation**

Confirmation No. 8685

Art Unit: 3662

Examiner: (to be assigned)

Atty. Docket: 1757.0260001

Petition Under 37 C.F.R. § 1.47(a)

Commissioner for Patents
Washington, D.C. 20231

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OFFICE OF PETITIONS

Sir:

In accordance with the requirements of 37 C.F.R. § 1.47(a) and M.P.E.P. § 409.03(a),
Petitioner has filed herewith the following documents:

- (1) an original Declaration for Patent Application executed, in three parts, by
inventors Ronald J. Vidal, Robert M. Kelly and David Bruton; and
- (2) a Statement of Facts In Support Of Petition Under 37 C.F.R. § 1.47(a).

The Declaration for Patent Application has been signed by three of the five named
joint inventors. Messrs. Paul Alexander and Robert Todd have not executed the Declaration
for patent application. Petitioner submits that the Declaration for patent application signed
by Messrs. Vidal, Kelly and Bruton, with the signature blocks of the non-signing inventors
left blank, should be considered as having been signed by all of the joint inventors on behalf
of the non-signing inventors. *See* M.P.E.P. § 409.03(a).

As evidenced by the Statement of Facts In Support Of Petition Under 37 C.F.R.
§ 1.47(a) (filed herewith), a *bona fide* attempt was made to present both Messrs. Alexander
and Todd with the application papers including the specification (with claims and drawings)
and a Declaration for Patent Application. *See* M.P.E.P. § 409.03(d). Since no response was

received from either Mr. Alexander or Mr. Todd, either the unsigned inventors (a) cannot be reached after diligent effort or (b) have refused to sign the Declaration after being presented with the application papers. The last known addresses for Messrs. Alexander and Todd are provided in the Statement.

Petitioner therefore respectfully submits that the documents and fees filed herewith satisfy all the requirements of 37 C.F.R. § 1.47(a) and M.P.E.P. §§ 409.03(a), (d), and (e). Accordingly, Petitioner respectfully requests that the Petition Under 37 C.F.R. § 1.47(a) be granted, and the Notice to File Missing Parts, dated February 12, 2002, be withdrawn.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Michael B. Ray
Attorney for Petitioner
Registration No. 33,997

Date: 6/12/02

1100 New York Avenue, N.W.
Suite 600
Washington, D.C. 20005-3934
(202) 371-2600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of:

Vidal *et al.*

Appl. No. 09/988,821

Filed: November 20, 2001

For: **Cable Installation**

Confirmation No. 8685

Art Unit: 3662

Examiner: (to be assigned)

Atty. Docket: 1757.0260001

Statement of Facts in Support of Petition Under 37 C.F.R. § 1.47(a)

Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, Kathy Manke, hereby declare:

1. I am making this statement of facts in regard to U.S. Patent Application No. 09/988,821, filed November 20, 2001, (the "patent application").
2. I am a paralegal employed by Level 3 Communications, Inc. ("Level 3"), the assignee of the entire right, title, and interest in the patent application.
3. I reside at 1600 Burlington Court, Fort Collins, Colorado 80525.
4. I was assigned the task of contacting each of the inventors of the patent application to have the patent application reviewed and to have a declaration executed.
5. Mr. Robert Todd is named as an inventor on the patent application. His last known residence address is as follows:

Robert Todd
40 Wordsworth Road
Harpenden, Herts
England AL5 4AF

6. On April 9, 2002, I sent via UPS (United Parcel Service) a letter to Mr. Todd at his last known residence address enclosing a copy of the patent application and a declaration. In the letter (copy enclosed as Exhibit A), I asked Mr. Todd to review the patent application, to review the declaration, and to sign and date the declaration and return it to me. A prepaid, UPS return envelope was also enclosed with my letter.

RECEIVED

JUN 13 2002

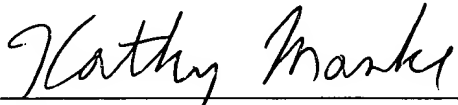
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7. UPS assigned tracking number 1Z6038EW6657184807 to my letter of April 9, 2002. UPS online tracking records (see Exhibit B) indicated that the letter was delivered on April 12, 2002 and was signed for by "Todd."
8. I never received a reply from Mr. Todd to my letter of April 9, 2002.
9. On May 2, 2002, I sent via UPS a second letter to Mr. Todd asking that the signed declaration be returned to me. A copy of my second letter is attached as Exhibit C.
10. UPS assigned tracking number 1Z6038EW6957757871 to my letter of May 2, 2002. UPS online tracking records (see Exhibit D) indicated that the letter was delivered on May 7, 2002 and was signed for by "Todd."
11. I never received a reply from Mr. Todd to my letter of May 2, 2002.
12. Mr. Paul Alexander is also named as an inventor on the patent application. His last known address is as follows:

Paul Alexander
35 Delancey Street
Camden, London
England NW1 7RX
13. On April 9, 2002, I sent via UPS a letter to Mr. Alexander enclosing a copy of the patent application and a declaration. In the letter (copy enclosed as Exhibit E), I asked Mr. Alexander to review the patent application, to review the declaration, and to sign and date the declaration and return it to me. A prepaid, UPS return envelope was also enclosed with my letter.
14. UPS assigned tracking number 1Z6038EW6657457816 to my letter of April 9, 2002. UPS online tracking records (see Exhibit B) indicated that the letter was delivered on April 12, 2002 and was signed for by "Alexandra."
15. I never received a reply from Mr. Alexander to my letter of April 9, 2002.
16. On May 2, 2002, I sent via UPS a second letter to Mr. Alexander asking that the signed declaration be returned to me. A copy of my second letter is attached as Exhibit F.
17. UPS assigned tracking number 1Z6038EW6958293405 to my letter of May 2, 2002. UPS online tracking records (see Exhibit D) indicated that the letter was delivered on May 7, 2002 and was signed for by "Paul."
18. I never received a reply from Mr. Alexander to my letter of May 2, 2002.

I declare that all statements made herein of my own knowledge are true and that all statements made on information from review of the file history of the patent application are believed to be true, and further that these statements were made with the knowledge that

willful false statements or the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the patent application or any patent issued thereon.



Kathy Manke

Date: 6-10-02

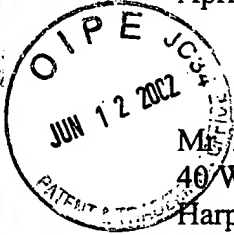


Kathy M. Manke
Paralegal

TEL: (720) 888-2508
FAX: (720) 888-5619
kathy.manke@level3.com

SENT VIA OVERNIGHT MAIL

April 9, 2002



Mr. Robert Todd
40 Wordsworth Road
Harpenden, Herts
England AL5 4AF

Re: U.S. Provisional Patent Application
For: Cable Installation

Dear Robert:

On November 21, 2000, a provisional patent application was filed with the United States Patent Office ("USPTO"). This application was assigned to Level 3 Communications, Inc. by the inventors. A copy of the Assignment is enclosed.

In order to comply properly with the requirements of the USPTO, a Declaration needs to be signed by each of the inventors. Please carefully review the enclosed patent application and Declaration. After you have completed the review of the patent application and the Declaration is correct, please sign and date the Declaration where indicated. If any corrections are made to either document, please initial and date the corrections in the margin.

The USPTO has established a due date of May 12, 2002 to file the enclosed Declaration. Please return it to me at your earliest convenience in the enclosed prepaid UPS envelope.

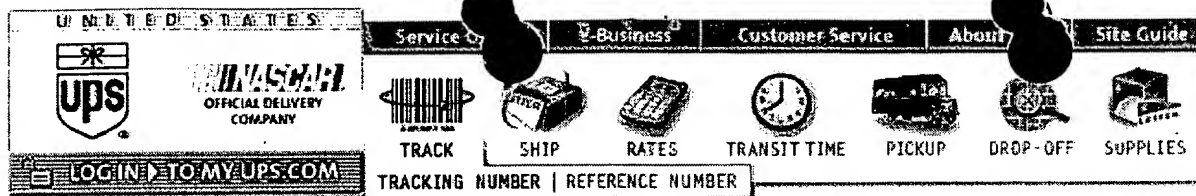
If you have any questions concerning this matter, please feel free to contact me.

Sincerely,

Kathy M. Manke
Kathy M. Manke
Paralegal

/kmm

Enclosures



Tracking Summary

To see a detailed report for each package, please select the Detail button.

TRACKING NUMBER

1. 1Z 603 8EW 66 5745 781 6

STATUS

Delivered

Delivered on:

Apr 12, 2002 10:30
A.M.

Delivered to:

LONDON, GB

Signed by:

ALEXANDRA

Service Type:

EXPRESS



2. 1Z 603 8EW 66 5718 480 7

Delivered

Delivered on:

Apr 12, 2002 1:24 P.M.

Delivered to:

HARPENDEN, GB

Signed by:

TODD

Service Type:

EXPRESS



Tracking results provided by UPS: May 1, 2002 3:25 P.M. Eastern Time (USA)

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Kathy M. Manke
Paralegal

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kathy.manke@level3.com

SENT VIA OVERNIGHT MAIL

May 2, 2002

Mr. Robert Todd
40 Wordsforth Road
Harpenden, Herts
England AL5 4AF

Re: U.S. Provisional Patent Application
For: Cable Installation

Dear Robert:

As a follow-up to my letter dated April 9, 2002, please be advised that I have not yet received from you a signed copy of the Declaration for the above-referenced patent application. UPS has informed me that it was delivered to you on April 12. If you have already sent me the signed Declaration, please contact me via e-mail or call me collect and let me know when it was sent together with the tracking number. If it hasn't been sent, please return the signed Declaration to me no later than May 24.

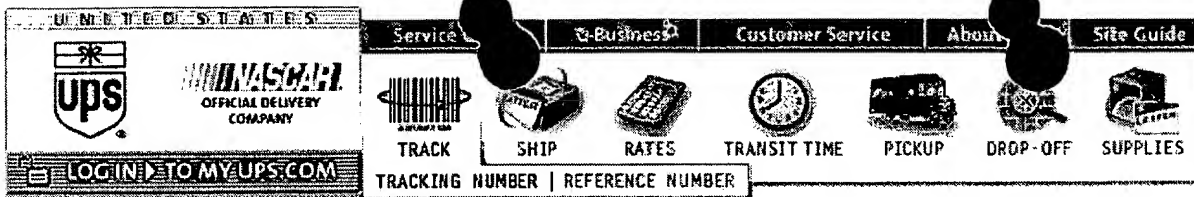
Thank you for your assistance in this matter. If you have any questions concerning this matter, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kathy M. Manke".



Kathy M. Manke
Paralegal

/kmm




Tracking Summary

To see a detailed report for each package, please select the Detail button.

| TRACKING NUMBER | STATUS | | |
|---|------------------|---------------|------------------------|
| 1. 1Z 603 8EW 69 5829 340 5 | Delivered | Delivered on: | May 7, 2002 11:58 A.M. |
| | | Delivered to: | LONDON, GB |
| | | Signed by: | PAUL |
| | | Service Type: | EXPRESS |
|  | | Delivered on: | May 7, 2002 11:10 A.M. |
| 2. 1Z 603 8EW 69 5775 787 1 | Delivered | Delivered to: | HARPENDEN, GB |
| | | Signed by: | TODD |
| | | Service Type: | EXPRESS |
|  | | | |

Tracking results provided by UPS: May 9, 2002 11:26 A.M. Eastern Time (USA)

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Kathy M. Manke
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kathy.manke@level3.com

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April 9, 2002

Mr. Paul Alexander
120 Powys Lane
Palmers Green, London
England N13 4HR

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For: Cable Installation

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If you have any questions concerning this matter, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kathy M. Manke".

Kathy M. Manke
Paralegal

/kmm

Enclosures



Kathy M. Manke
Paralegal

TEL: (720) 888-2508
FAX: (720) 888-5134
kathy.manke@level3.com

SENT VIA OVERNIGHT MAIL

May 2, 2002

Mr. Paul Alexander
35 Delancey Street
Camden
London, England NW1 7RX

Re: U.S. Provisional Patent Application
For: Cable Installation

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/kmm